THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.20115 OF 2005

Date: 26th October 2006

Between:
Yaka Appala Naidu, s/o Naidu,
Hindu, aged 48 years, fair price shopdealer,
P.P.Agraharam village, Makavarapalem Mandal,
Narsipatnam sub division, Visakhapatnam District.

…. Petitioner.

And

1. The Collector,
   Visakhapatnam District and 2 others.

…. Respondents.

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ORDER:

This writ petition is filed being aggrieved by proceedings of the District Collector, Visakhapatnam District, in RP.No.4/05/CSR 7, dated 02.8.2005, wherein the orders passed by the Joint Collector, Visakhapatnam District, in his proceedings A.C.No.24/04 CSR7, dated 27.3.2005 wherein the orders of the Assistant Collector, Narsipatnam, dated 03.11.2004, were affirmed, were confirmed.

2. It appears that the petitioner was a fair price shop dealer of P.P.Agraharam village, Makavarapalem Mandal, Narsipatnam Sub-Division, Visakhapatnam District. His authorization for the said fair price shop was cancelled by the proceedings dated

03.11.2004 of the Assistant Collector, Narsipatnam. There are two charges framed against the petitioner and explanation was called for. But no further enquiry was conducted into the matter and a finding was arrived at as under.

> " Charges levelled against the dealer as per the enquiry report submitted by the Mandal Revenue Officer, explanation of the dealer is not believable and it is held that the charges levelled against him are proved."

Therefore, the authorization of the petitioner was cancelled. Aggrieved by the same, the petitioner carried the matter in appeal before the Joint Collector, Visakhapatnam. The Joint Collector, Visakhapatnam, also without making any further enquiry, simply confirmed the orders passed by the Assistant Collector, Narsipatnam, by an order dated 27.3.2005. Aggrieved thereby, the petitioner further carried the matter before the District Collector, Visakhapatnam. The District Collector also confirmed the order passed by the Joint Collector.

3. The orders passed by the Assistant Collector as confirmed by the Joint Collector and further confirmed by the District Collector are monotonous and the arguments advanced by the petitioner or his counsel were not properly considered. No fair enquiry as required under law, has been conducted. The whole case is based on the report of the Mandal Revenue Officer, Makavarapalem, and holding that the explanation of the petitioner cannot be believed in view of the report of the Mandal Revenue Officer. Except this nothing has been stated. Therefore, I am of the opinion that the enquiry conducted by the Assistant Collector

and passing the impugned proceedings suffers from gross violation of principles of natural justice.

4. Therefore, the order passed by the Assistant Collector, Narsipatnam, as confirmed by the Joint Collector, Visakhapatnam, and further confirmed by the District Collector, Visakhapatnam, are liable to be set aside and are set aside. The petitioner is entitled for restoration of the authorization against fair price shop of P.P.Agraharam village, Makavarapalem Mandal, Narsipatnam Sub-Division, Visakhapatnam District. However, this will not preclude the authorities from conducting a detailed enquiry into the matter after issuing notice to the petitioner and passing fresh orders and till such time the petitioner shall be allowed to continue to operate the said fair price shop.

5. The writ petition is accordingly allowed. No order as to costs.

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C.V.RAMULU, J.

Date: 26th October 2006.
BSB